

RECODIFICATION OF NATURAL RESOURCES**PROVISIONS**

2009 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill amends and enacts provisions relating to natural resources.

Highlighted Provisions:

This bill:

- ▶ creates Title 79, Natural Resources;
- ▶ rennumbers and amends certain chapters from Title 63, State Affairs in General;
- ▶ enacts and repeals sections;
- ▶ defines terms; and
- ▶ makes technical changes.

Monies Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:**ENACTS:**

79-1-101, Utah Code Annotated 1953

79-1-102, Utah Code Annotated 1953

79-2-101, Utah Code Annotated 1953

79-2-102, Utah Code Annotated 1953

79-2-302, Utah Code Annotated 1953

RENUMBERS AND AMENDS:

79-2-201, (Renumbered from 63-34-3, as last amended by Laws of Utah 1996, Chapter 159)

79-2-202 (Contingently Effective), (Renumbered from 63-34-5 (Contingently Effective), as last amended by Laws of Utah 2008, Chapter 382)

79-2-202 (Contingently Superseded), (Renumbered from 63-34-5 (Contingently Superseded), as last amended by Laws of Utah 2003, Chapter 144)

79-2-203, (Renumbered from 63-34-4, as last amended by Laws of Utah 2002, Chapter 176)

79-2-204, (Renumbered from 63-34-6, as last amended by Laws of Utah 2008, Chapter 250)

79-2-205, (Renumbered from 63-34-3.1, as last amended by Laws of Utah 2008, Chapter 382)

79-2-301, (Renumbered from 63-34-8, as last amended by Laws of Utah 1983, Chapter 318)

79-2-303, (Renumbered from 63-34-14, as last amended by Laws of Utah 2005, Chapter 71)

79-2-304, (Renumbered from 63-34-20, as enacted by Laws of Utah 2006, Chapter 35)

79-2-305 (Contingently Effective), (Renumbered from 63-34-3.2 (Contingently Effective), as enacted by Laws of Utah 2002, Chapter 142)

79-2-306 (Contingently Effective), (Renumbered from 63-34-3.3 (Contingently Effective), as enacted by Laws of Utah 2002, Chapter 142)

79-2-401, (Renumbered from 63-34-9, as enacted by Laws of Utah 1981, Chapter 186)

79-2-402, (Renumbered from 63-34-15, as last amended by Laws of Utah 2008, Chapter 382)

79-2-403, (Renumbered from 63-34-21, as enacted by Laws of Utah 2008, Chapters 203 and 203)

REPEALS:

63-34-1, as enacted by Laws of Utah 1967, Chapter 176

63-34-7, as last amended by Laws of Utah 1969, Chapter 198

63-34-10, as enacted by Laws of Utah 1981, Chapter 186

63-34-11, as last amended by Laws of Utah 1999, Chapter 236

63-34-12, as last amended by Laws of Utah 2006, Chapter 139

63-34-16, as renumbered and amended by Laws of Utah 2003, Chapter 16

63-34-17, as last amended by Laws of Utah 2008, Chapter 382

63-34-18, as renumbered and amended by Laws of Utah 2003, Chapter 16

63 **63-34-19**, as renumbered and amended by Laws of Utah 2003, Chapter 16

64

65 *Be it enacted by the Legislature of the state of Utah:*

66 Section 1. Section **79-1-101** is enacted to read:

67 **TITLE 79. NATURAL RESOURCES**

68 **CHAPTER 1. GENERAL PROVISIONS**

69 **79-1-101. Titles.**

70 (1) This title is known as "Natural Resources."

71 (2) This chapter is known as "General Provisions."

72 Section 2. Section **79-1-102** is enacted to read:

73 **79-1-102. Definitions.**

74 As used in this title:

75 (1) "Department" means the Department of Natural Resources created in Section
76 79-2-201.

77 (2) "Executive director" means the executive director of the department who is
78 appointed under Section 79-2-202.

79 Section 3. Section **79-2-101** is enacted to read:

80 **CHAPTER 2. DEPARTMENT OF NATURAL RESOURCES**

81 **Part 1. General Provisions**

82 **79-2-101. Title.**

83 This chapter is known as the "Department of Natural Resources."

84 Section 4. Section **79-2-102** is enacted to read:

85 **79-2-102. Definitions.**

86 As used in this chapter:

87 (1) "Conservation officer" is as defined in Section 23-13-2.

88 (2) "Species protection" means an action to protect a plant or animal species identified

89 as:

90 (a) sensitive by the state; or

91 (b) threatened or endangered under the Endangered Species Act of 1973, 16 U.S.C.

92 Sec. 1531 et seq.

(3) "Volunteer" means a person who donates a service to the department or a division of the department without pay or other compensation.

Section 5. Section **79-2-201**, which is renumbered from Section 63-34-3 is renumbered and amended to read:

Part 2. Department Creation and Administration

~~[63-34-3]~~. **79-2-201. Department of Natural Resources created.**

(1) There is created ~~[within state government]~~ the Department of Natural Resources.

(2) The ~~[Department of Natural Resources]~~ department comprises the following ~~[boards, councils, and divisions]~~:

- (a) Board of Water Resources, created in Section 73-10-1.5;
- (b) Forestry, Fire, and State Lands Advisory Council, created in Section 65A-1-2;
- (c) Board of Oil, Gas, and Mining, created in Section 40-6-4;
- (d) Board of Parks and Recreation, created in Section 63-11-12;
- (e) Wildlife Board, created in Section 23-14-2;
- (f) Riverway Enhancement Advisory Council, created in Section 63-11-17.7;
- (g) Board of the Utah Geological Survey, created in Section 63-73-2;
- (h) Water Development Coordinating Council, created in Section 73-10c-3;
- (i) Division of Water Rights, created in Section 73-2-1.1;
- (j) Division of Water Resources, created in Section 73-10-18;
- (k) Division of Forestry, Fire, and State Lands, created in Section 65A-1-4;
- (l) Division of Oil, Gas, and Mining, created in Section 40-6-15;
- (m) Division of Parks and Recreation, created in Section 63-11-17.1;
- (n) Division of Wildlife Resources~~[-and]~~, created in Section 23-14-1;
- (o) Utah Geological Survey~~[-]~~, created in Section 63-73-5;
- (p) Heritage Trees Advisory Committee, created in Section 65A-8-306;
- (q) Recreational Trails Advisory Council, authorized by Section 63-11a-401;
- (r) Boating Advisory Council, authorized by Section 73-18-3.5;
- (s) Wildlife Board Nominating Committee, created in Section 23-14-2.5; and
- (t) Wildlife Regional Advisory Councils, created in Section 23-14-2.6.

Section 6. Section **79-2-202 (Contingently Superseded)**, which is renumbered from Section 63-34-5 (Contingently Superseded) is renumbered and amended to read:

~~[63-34-5 (Contingently Superseded)]~~. 79-2-202 (Contingently
Superseded). Executive director-- Appointment -- Removal -- Compensation --
Responsibilities.

(1) (a) The chief administrative officer of the ~~[Department of Natural Resources shall~~
~~be]~~ department is an executive director appointed by the governor with the consent of the
Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the
salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) administer and supervise the ~~[Department of Natural Resources]~~ department and
provide for coordination and cooperation among the boards, divisions, ~~[and offices]~~ councils,
and committees of the department;

(b) approve the budget of each board and division;

(c) participate in regulatory proceedings as appropriate ~~[to]~~ for the functions and duties
of the department;

(d) report at the end of each fiscal year to the governor on department, board, and
division activities~~[-, and activities of the boards and divisions];~~ and

(e) perform other duties as provided ~~[by the Legislature]~~ by statute.

~~[(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of~~
~~fees assessed for services provided by the department.]~~

~~[(b) A fee described in Subsection (3)(a) shall:]~~

~~[(i) be reasonable and fair; and]~~

~~[(ii) reflect the cost of services provided.]~~

~~[(c) Each fee established under this Subsection (3) shall be submitted to and approved~~
~~by the Legislature as part of the department's annual appropriations request.]~~

~~[(d) The department may not charge or collect any fee established under this~~
~~Subsection (3) without approval of the Legislature.]~~

(3) (a) After receiving the governor's approval, the executive director, may accept, on
behalf of the state, and bind the state by the acceptance, an executive or legislative provision
that is promulgated or enacted by the federal government or a federal agency, whereby the state

may participate in the distribution, disbursement, or administration of a fund or service, advanced, offered, or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department.

(b) If the federal government's provision requires, as a condition of the state's participation in the fund, property, or service, the executive director, with the governor's approval, shall expend the funds that are necessary out of the moneys appropriated by the Legislature for the use and disbursement of the department.

(4) (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.

(b) The executive director shall submit any plan to the governor for review and approval.

Section 7. Section **79-2-202 (Contingently Effective)**, which is renumbered from Section 63-34-5 (Contingently Effective) is renumbered and amended to read:

~~63-34-5 (Contingently Effective)~~. 79-2-202 (Contingently Effective). Executive director -- Appointment -- Removal -- Compensation -- Responsibilities.

(1) (a) The chief administrative officer of the ~~[Department of Natural Resources shall be]~~ department is an executive director appointed by the governor with the consent of the Senate.

(b) The executive director may be removed at the will of the governor.

(c) The executive director shall receive a salary established by the governor within the salary range fixed by the Legislature in Title 67, Chapter 22, State Officer Compensation.

(2) The executive director shall:

(a) administer and supervise the ~~[Department of Natural Resources]~~ department and provide for coordination and cooperation among the boards, divisions, ~~[and offices]~~ councils, and committees of the department;

(b) approve the budget of each board and division;

(c) participate in regulatory proceedings as appropriate ~~[to]~~ for the functions and duties of the department;

(d) ensure that funds appropriated to the ~~[Department of Natural Resources]~~

department from the Wetlands Protection Account created by Section ~~[63-34-3.2]~~ 79-2-305 are expended in accordance with ~~[Subsection 63-34-3.2(3)]~~ that section;

(e) ensure that funds appropriated to the ~~[Department of Natural Resources]~~ department from the Recreational Trails and Streams Enhancement and Protection Account created by Section ~~[63-34-3.3]~~ 79-2-306 are expended in accordance with ~~[Subsection 63-34-3.3(3)]~~ that section;

(f) report at the end of each fiscal year to the governor on department, board, and division activities~~[, and activities of the boards and divisions]~~; and

(g) perform other duties as provided ~~[by the Legislature]~~ by statute.

~~[(3) (a) Unless otherwise provided by statute, the department may adopt a schedule of fees assessed for services provided by the department.]~~

~~[(b) A fee described in Subsection (3)(a) shall:]~~

~~[(i) be reasonable and fair; and]~~

~~[(ii) reflect the cost of services provided.]~~

~~[(c) Each fee established under this Subsection (3) shall be submitted to and approved by the Legislature as part of the department's annual appropriations request.]~~

~~[(d) The department may not charge or collect any fee established under this Subsection (3) without approval of the Legislature.]~~

(3) (a) After receiving the governor's approval, the executive director may accept, on behalf of the state, and bind the state by the acceptance, an executive or legislative provision that is promulgated or enacted by the federal government or a federal agency, whereby the state may participate in the distribution, disbursement, or administration of a fund or service, advanced, offered, or contributed in whole or in part by the federal government for purposes consistent with the powers and duties of the department.

(b) If the federal government's provision requires, as a condition of the state's participation in the fund, property, or service, the executive director, with the governor's approval, shall expend the funds that are necessary out of the moneys appropriated by the Legislature for the use and disbursement of the department.

(4) (a) The executive director, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.

217 (b) The executive director shall submit any plan to the governor for review and
218 approval.

219 Section 8. Section **79-2-203**, which is renumbered from Section 63-34-4 is renumbered
220 and amended to read:

221 **[63-34-4]. 79-2-203. Appointment of policy board members -- Terms --**
222 **Qualifications -- Expenses -- Removal -- Conflicts of interest.**

223 (1) The governor, with the consent of the Senate, shall appoint the members of the
224 division policy boards created in Section [63-34-3] 79-2-201.

225 (2) (a) Except as required by Subsection (2)(b), as terms of current board members
226 expire, the governor shall appoint each new member or reappointed member to a four-year
227 term.

228 (b) Notwithstanding the requirements of Subsection (2)(a), the governor shall, at the
229 time of appointment or reappointment, adjust the length of terms to ensure that the terms of
230 board members are staggered so that approximately half of the board is appointed every two
231 years.

232 (c) The board members shall be appointed for no more than two consecutive terms
233 unless the governor considers an additional appointment necessary due to exceptional
234 circumstances.

235 (3) Members shall be appointed consistent with the following criteria:

- 236 (a) geographical distribution;
237 (b) expertise or personal experience with subject matter;
238 (c) diversity of opinion and political preference; and
239 (d) gender, cultural, and ethnic representation.

240 (4) (a) (i) ~~[Members]~~ A member who ~~[are]~~ is not a government ~~[employees shall]~~
241 employee may not receive ~~[no]~~ compensation or benefits for ~~[their]~~ the member's services, but
242 may receive per diem and expenses incurred in the performance of the member's official duties
243 at the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.

244 (ii) ~~[Members]~~ A member may decline to receive per diem and expenses for ~~[their]~~ the
245 member's service.

246 (b) (i) ~~[State]~~ A state government officer and employee ~~[members]~~ member who ~~[do]~~
247 does not receive salary, per diem, or expenses from ~~[their]~~ the agency the member represents

248 for ~~[their]~~ the member's service may receive per diem and expenses incurred in the
249 performance of ~~[their]~~ the member's official duties ~~[from the board]~~ at the rates established by
250 the Division of Finance under Sections 63A-3-106 and 63A-3-107.

251 (ii) ~~[State]~~ A state government officer and employee ~~[members]~~ member may decline
252 to receive per diem and expenses for ~~[their]~~ the member's service.

253 (5) (a) ~~[Any]~~ The governor may remove a member ~~[may be removed]~~ at any time ~~[by~~
254 ~~the governor]~~ for official misconduct, habitual or willful neglect of duty, or for other good and
255 sufficient cause.

256 (b) When a vacancy occurs in the membership for any reason, the replacement shall be
257 appointed for the unexpired term.

258 (6) No member of the Legislature may serve as a member of a division policy board.

259 (7) A board member shall disclose any conflict of interest to the board and if the
260 conflict involves a direct financial interest in either the subject under consideration or an entity
261 or asset that could be substantially affected by the outcome of board action, the member shall
262 refrain from voting on the matter.

263 Section 9. Section **79-2-204**, which is renumbered from Section 63-34-6 is renumbered
264 and amended to read:

265 **~~[63-34-6]. 79-2-204. Division directors -- Appointment -- Removal --~~**
266 **Jurisdiction of executive director.**

267 (1) (a) The chief administrative officer of ~~[each]~~ a division within the ~~[Department of~~
268 ~~Natural Resources shall be]~~ department is a director appointed by the executive director ~~[of the~~
269 ~~Department of Natural Resources]~~ with the concurrence of the board having policy authority
270 for the division.

271 (b) The director of ~~[each]~~ a division may be removed from office by the executive
272 director ~~[of the Department of Natural Resources]~~.

273 (c) The appointment and term of office of the state engineer, notwithstanding anything
274 to the contrary contained in this section, shall be in accordance with Section 73-2-1.

275 (2) (a) The executive director ~~[of the Department of Natural Resources shall have]~~ has
276 administrative jurisdiction over ~~[each of the]~~ a division ~~[directors]~~ director for the purpose of
277 implementing department policy as established by the ~~[division boards]~~ division's board.

278 (b) The executive director ~~[of the Department of Natural Resources]~~ may:

(i) consolidate personnel and service functions in the ~~[respective]~~ divisions ~~[under his administrative jurisdiction]~~ to effectuate efficiency and economy in the operations of the department~~[-and];~~

(ii) may establish a departmental services division to perform service functions~~[-]; and~~

~~[(c) This jurisdiction includes the authority of the executive director to]~~

(iii) employ law enforcement officers and special function officers within the ~~[Department of Natural Resources. These law enforcement officers shall]~~ department that have all of the powers of a conservation ~~[officers provided in Title 23, Wildlife Resources Code of Utah,]~~ officer and law enforcement officers, with the exception of the power to serve civil process.

~~[(3) (a) The executive director of the Department of Natural Resources, in cooperation with the governmental entities having policymaking authority regarding natural resources, may engage in studies and comprehensive planning for the development and conservation of the state's natural resources.]~~

~~[(b) The executive director shall submit any plans to the governor for review and approval.]~~

Section 10. Section **79-2-205**, which is renumbered from Section 63-34-3.1 is renumbered and amended to read:

~~[63-34-3.1].~~ **79-2-205. Procedures -- Adjudicative proceedings.**

~~[The Department of Natural Resources and the divisions, boards, and councils]~~ Except as provided by Sections 63G-4-102, 40-10-13, and 73-2-25, a division, board, council, or committee referred to in Section [63-34-3] 79-2-201 shall comply with the procedures and requirements of Title 63G, Chapter 4, Administrative Procedures Act, in [their] an adjudicative [proceedings] proceeding.

Section 11. Section **79-2-301**, which is renumbered from Section 63-34-8 is renumbered and amended to read:

Part 3. Finances

~~[63-34-8].~~ **79-2-301. Budget.**

(1) The department ~~[of natural resources]~~ shall prepare and submit to the governor, to be included in the budget to be submitted to the Legislature, a budget of the department's requirements for expenses in carrying out the provisions of law during the fiscal year next

310 following the convening of the Legislature.

311 (2) The director of each division shall prepare, with the advice of the division's policy
312 board, a budget of expenses for the next fiscal year, which shall be submitted to the executive
313 director [~~of the department of natural resources~~] to aid in the preparation of the departmental
314 budget.

315 Section 12. Section **79-2-302** is enacted to read:

316 **79-2-302. Fees.**

317 (1) Unless otherwise provided by statute, the department may adopt a schedule of fees
318 assessed for services provided by the department.

319 (2) A fee described in Subsection (1) shall:

320 (a) be reasonable and fair; and

321 (b) reflect the cost of services provided.

322 (3) The department shall submit a fee established under this section to the Legislature
323 as part of the department's annual appropriations request.

324 (4) The department may not charge or collect a fee established under this section
325 without approval of the Legislature.

326 Section 13. Section **79-2-303**, which is renumbered from Section 63-34-14 is
327 renumbered and amended to read:

328 ~~[63-34-14].~~ **79-2-303. Species Protection Account.**

329 ~~[(1) As used in this section, "species protection" means an action to protect any plant or~~
330 ~~animal species identified as sensitive by the state or as threatened or endangered under the~~
331 ~~Endangered Species Act of 1973, 16 U.S.C. Sec. 1531 et seq.]~~

332 ~~[(2)]~~ (1) There is created within the General Fund a restricted account known as the
333 Species Protection Account.

334 ~~[(3)]~~ (2) The account shall consist of:

335 (a) revenue generated by the brine shrimp tax provided for in Title 59, Chapter 23,
336 Brine Shrimp Royalty Act; and

337 (b) interest earned on monies in the account.

338 ~~[(4)]~~ (3) Monies in the account may be appropriated by the Legislature [~~for the~~
339 ~~following purposes~~] to:

340 (a) [~~to~~] develop and implement species status assessments and species protection

341 measures;

342 (b) ~~[to]~~ obtain biological opinions of proposed species protection measures;

343 (c) ~~[to]~~ conduct studies, investigations, and research into the effects of proposed

344 species protection measures;

345 (d) ~~[to]~~ verify species protection proposals that are not based on valid biological data;

346 (e) ~~[for]~~ implement Great Salt Lake wetlands mitigation projects in connection with the

347 western transportation corridor;

348 (f) ~~[to]~~ pay for the state's voluntary contributions to the Utah Reclamation Mitigation

349 and Conservation Account under the Central Utah Project Completion Act, Pub. L. No.

350 102-575, Titles II-VI, 106 Stat. 4605-4655; and

351 (g) ~~[to]~~ pay for expenses of the State Tax Commission under Title 59, Chapter 23,

352 Brine Shrimp Royalty Act.

353 ~~[(5)]~~ (4) The purposes specified in Subsections ~~[(4)]~~ (3)(a) through ~~[(4)]~~ (3)(d) may be

354 accomplished by the state or, in an appropriation act, the Legislature may authorize the

355 ~~[Department of Natural Resources]~~ department to award grants to political subdivisions of the

356 state to accomplish those purposes.

357 ~~[(6)]~~ (5) Monies in the account may not be used to develop or implement a habitat

358 conservation plan required under federal law unless the federal government pays for at least 1/3

359 of the habitat conservation plan costs.

360 Section 14. Section **79-2-304**, which is renumbered from Section 63-34-20 is

361 renumbered and amended to read:

362 **~~[63-34-20]. 79-2-304. Natural Resources Conservation Easement Account.~~**

363 (1) There is created within the General Fund a restricted account known as the Natural

364 Resources Conservation Easement Account.

365 (2) The Natural Resources Conservation Easement Account consists of:

366 (a) grants from private foundations;

367 (b) grants from local governments, the state, or the federal government;

368 (c) grants from the Quality Growth Commission created under Section 11-38-201;

369 (d) donations from landowners for monitoring and enforcing compliance with

370 conservation easements;

371 (e) donations from any other person; and

(f) interest on account monies.

(3) Upon appropriation by the Legislature, the ~~[Department of Natural Resources]~~
department shall use monies from the account to monitor and enforce compliance with
conservation easements held by the department.

(4) The department may not receive or expend donations from the account to acquire
conservation easements.

Section 15. Section **79-2-305 (Contingently Effective)**, which is renumbered from
Section 63-34-3.2 (Contingently Effective) is renumbered and amended to read:

~~**[63-34-3.2 (Contingently Effective)].**~~ **79-2-305 (Contingently**
Effective). Wetlands Protection Account.

(1) There is created within the General Fund a restricted account known as the
Wetlands Protection Account.

(2) The account shall ~~[be funded by a \$10,000,000]~~ consist of:

(a) a payment resulting from a [2002 Settlement Agreement] settlement agreement
between the United States Department of the Interior through the Fish and Wildlife Service and
the state through the ~~[Department of Natural Resources]~~ department; and

(b) interest earned on the account.

(3) Funds in the Wetlands Protection Account may be used in accordance with the
public trust doctrine.

Section 16. Section **79-2-306 (Contingently Effective)**, which is renumbered from
Section 63-34-3.3 (Contingently Effective) is renumbered and amended to read:

~~**[63-34-3.3 (Contingently Effective)].**~~ **79-2-306 (Contingently**
Effective). Recreational Trails and Streams Enhancement and Protection Account.

(1) There is created within the General Fund a restricted account known as the
Recreational Trails and Streams Enhancement and Protection Account.

(2) The account shall ~~[be funded by a \$5,000,000]~~ consist of:

(a) a payment resulting from a [2002 Settlement Agreement] settlement agreement
between the United States Department of the Interior through the Fish and Wildlife Service and
the state through the ~~[Department of Natural Resources]~~ department; and

(b) interest earned on the account.

(3) Funds in the Recreational Trails and Streams Enhancement and Protection Account

403 may be used for the:

404 (a) development, improvement, and expansion of motorized and nonmotorized

405 recreational trails on public and private lands in the state; and

406 (b) preservation, reclamation, enhancement, or conservation of streams in the state.

407 Section 17. Section **79-2-401**, which is renumbered from Section 63-34-9 is

408 renumbered and amended to read:

409 **[63-34-9]. 79-2-401. Volunteer workers authorized.**

410 (1) The ~~[Department of Natural Resources]~~ department and its divisions ~~[are~~

411 ~~authorized to]~~ may use volunteer workers to supplement the salaried work force.

412 (2) A volunteer may be reimbursed for expenses actually and necessarily incurred,

413 including transportation, meals, lodging, uniforms, and other items as approved by the Division

414 of Finance, in the amounts and in accordance with the rules of the Division of Finance.

415 (3) A volunteer is considered an employee of the state for the purposes stated in

416 Section 67-20-3.

417 (4) A volunteer may not donate a service to the department or a division unless the

418 work program in which the volunteer would serve has first been approved, in writing, by the

419 executive director and the executive director of the Department of Human Resource

420 Management.

421 (5) Volunteer services shall comply with the rules adopted by the Department of

422 Human Resource Management relating to that service that are not inconsistent with this

423 section.

424 Section 18. Section **79-2-402**, which is renumbered from Section 63-34-15 is

425 renumbered and amended to read:

426 **[63-34-15]. 79-2-402. Outdoor recreation facilities -- Participation in federal**

427 **programs.**

428 ~~[(1) The Legislature finds that the state of Utah and its political subdivisions should~~

429 ~~enjoy the benefits of federal assistance programs for the planning and development of the~~

430 ~~outdoor recreation resources of the state, including the acquisition of lands and waters and~~

431 ~~interests in land and water.]~~

432 ~~[(2) To accomplish those purposes, the]~~

433 (1) The executive director [of the Department of Natural Resources] may, by following

the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, seek a federal ~~[grants, loans,]~~ grant or loan or participation in a federal ~~[programs,]~~ program to plan and develop an outdoor recreation resource, including:

(a) acquiring land or water; or

(b) acquiring an interest in land or water.

(2) (a) The executive director, in cooperation with the state planning coordinator and the state agency or political subdivision responsible for planning, acquisition, and development of outdoor recreation resources, may prepare, maintain, and update a comprehensive plan for the outdoor recreation resources of the state.

(b) The executive director shall submit the plan and any plan amendment to the governor for the governor's review and approval.

(3) By following the procedures and requirements of Title 63J, Chapter 5, Federal Funds Procedures, the executive director may:

(a) apply to a United States officer or agency for participation in or the receipt of aid from a federal program regarding outdoor recreation;

(b) in cooperation with other state agencies, enter into a contract or agreement with the United States or a United States agency;

(c) keep financial and other records; and

(d) furnish necessary reports to the United States official or agency.

(4) In connection with obtaining the benefits of an outdoor recreation program, the executive director shall coordinate the department's activities with and represent the interests of all state agencies and political subdivisions having an interest in the planning, development, and maintenance of the outdoor recreation resource or facility.

(5) The department may act as the agent of the state or a political subdivision to receive and to disburse federal moneys in accordance with the comprehensive plan.

(6) The executive director may not make a commitment or enter into an agreement as authorized by this section and neither shall the governor approve a commitment or agreement unless sufficient funds are available to the department for meeting the state's share, if any, of project costs.

(7) To the extent necessary to assure the proper operation and maintenance of areas and facilities acquired or developed pursuant to a program participated in by the state under this

section, the areas and facilities shall be publicly maintained for outdoor recreation purposes.

(8) The executive director may enter into and administer an agreement with the United States or a United States agency with the governor's approval for planning, acquisition, and development projects involving participating federal-aid funds on behalf of a political subdivision, if the political subdivision gives necessary assurance to the executive director that:

(a) the political subdivision has available sufficient funds to meet the political subdivision's share, if any, of the cost of the project; and

(b) the political subdivision will operate and maintain an acquired or developed area at the expense of the political subdivision for public outdoor recreation use.

Section 19. Section **79-2-403**, which is renumbered from Section 63-34-21 is renumbered and amended to read:

~~[63-34-21]~~. **79-2-403. Rulemaking for sale of real property -- Licensed or certified appraisers -- Exceptions.**

(1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, if the department buys, sells, or exchanges real property, the department shall make rules to ensure that the value of the real property is congruent with the proposed price and other terms of the purchase, sale, or exchange.

(2) The rules:

(a) shall establish procedures for determining the value of the real property;

(b) may provide that an appraisal, as defined under Section 61-2b-2, demonstrates the real property's value; and

(c) may require that the appraisal be completed by a state-certified general appraiser, as defined under Section 61-2b-2.

(3) Subsection (1) does not apply to the purchase, sale, or exchange of real property, or to an interest in real property:

(a) that is under a contract or other written agreement prior to May 5, 2008; or

(b) with a value of less than \$100,000, as estimated by the state agency.

Section 20. **Repealer.**

This bill repeals:

Section **63-34-1, Short title.**

Section **63-34-7, Federal aid programs -- Agreements with other states and**

496 **organizations -- Authority of executive director.**

497 Section **63-34-10,"Volunteer" defined -- Expense reimbursement.**

498 Section **63-34-11, Volunteers as state employees.**

499 Section **63-34-12, Approval prerequisite to volunteer service -- Rules and**
500 **regulations.**

501 Section **63-34-16, Outdoor recreation facilities -- Executive director to plan.**

502 Section **63-34-17, Outdoor recreation facilities -- Powers of executive director to**
503 **obtain federal aid.**

504 Section **63-34-18, Outdoor recreation facilities -- Department of Natural Resources**
505 **as agent of state.**

506 Section **63-34-19, Outdoor recreation facilities -- Availability of funds for shares of**
507 **state or political subdivision project costs required.**